



## U.S. Department of Justice

*United States Attorney  
Southern District of New York*

USDC-SDNY
DOCUMENT
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<b>BY ECF</b>

The Honorable Ronnie Abrams  
United States District Judge  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

March 18, 2015

**MEMO ENDORSED**

Application granted. The bench trial is scheduled for April 9 at 11 a.m. SO ORDERED.

Ronnie Abrams, U.S.D.J.  
March 18, 2015

Dear Judge Abrams:

The parties have consulted and respectfully request that in lieu of the jury trial scheduled in this case, the Court conduct a bench trial on stipulated facts on the enclosed Indictment. Defense counsel requests that the bench trial on stipulated facts be scheduled for a date after April 6, 2015, at a time convenient for the Court. The Government has no objection to this request.

For the Court's convenience, the parties plan to provide copies of the jury trial waiver and factual stipulation (the "Stipulation") to which the parties have agreed by April 1, 2015. It is anticipated that the parties will execute these documents prior to the trial.

The Government respectfully requests that, on the day of trial, the Court engage in a colloquy with the defendant regarding his waiver of a jury trial and his execution of the Stipulation. In particular, the Government requests that the Court elicit that the defendant understands the following:

- Cardona has the right to be represented by counsel at this and every stage of the proceedings against him.
- Cardona has the right to a trial by jury; the jury would consist of 12 impartial persons selected from the community, and Cardona could not be convicted unless

all 12 jurors unanimously agreed that the Government had met its burden of proof as to each element. Cardona would have the right, with the assistance of his counsel, to participate in the selection of the jury.

- At trial, Cardona has the right to testify on his own behalf, but cannot be compelled to testify and has no obligation to do so.
- If the Court approves the defendant's waiver of jury trial, the Court will try the case without a jury and the Court alone will make the determination whether the defendant is guilty or not guilty.
- The defendant cannot be required to give up his right to a jury trial. In this regard, the Government requests that the Court confirm with Cardona that he is waiving his right to a jury trial voluntarily, and not because of any force, threats, and/or promises.
- Cardona is entering into the Stipulation voluntarily, and not because of any force, threats, and/or promises.
- Upon signing the waiver and Stipulation, it is the expectation of the attorneys that the Court will find that guilt has been proven by the evidence and stipulated facts beyond a reasonable doubt. Thereafter, Cardona will be sentenced in accordance with the law, and will then have the right to appeal the legal issues involved in his case but not the factual issues to which he has stipulated.
- If convicted, the Court would sentence the defendant and, in doing so, would consider, but would not be bound by, the United States Sentencing Guidelines.

Respectfully submitted,

PREET BHARARA  
United States Attorney



By:

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cc: Daniel DeMaria, Esq.  
Carlos Moreno, Esq.